United Nations S/2002/36

Security Council

Distr.: General
9 January 2002
English
Original: French

Letter dated 8 January 2002 from the Permanent Representative of the Democratic Republic of the Congo to the United Nations addressed to the President of the Security Council

On instructions from my Government, I have the honour to transmit to you herewith (see annex) the text of the Joint Communiqué concerning the visit made from 6 to 8 January 2002 to the Democratic Republic of the Congo by His Excellency Mr. Thérence Sinunguruza, Minister for Foreign Affairs and Cooperation of the Republic of Burundi.

My Government requests you to have the present letter and its annex circulated as a document of the Security Council.

(*Signed*) Atoki **Ileka**
Ambassador
Permanent Representative

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Annex to the letter dated 8 January 2002 from the Permanent Representative of the Democratic Republic of the Congo to the United Nations addressed to the President of the Security Council

Joint Communiqué issued at the end of the visit by His Excellency Mr. Thérence Sinunguruza, Minister for Foreign Affairs and Cooperation of the Republic of Burundi

Bearing in mind the Charters of the United Nations and the Organization of African Unity,

Bearing in mind the relevant resolutions of the United Nations Security Council concerning the war in the Democratic Republic of the Congo,

Considering the contacts made between the two Ministers at New York in November 2001, in the course of the joint meeting of the Political Committee and the Security Council of the United Nations, and in Tokyo in December 2001, in the course of the Third Tokyo International Conference on African Development (TICAD III), respectively,

At the invitation of His Excellency Mr. Léonard She Okitundu, Minister for Foreign Affairs and International Cooperation of the Democratic Republic of the Congo on behalf of his Government, His Excellency Mr. Thérence Sinunguruza, Minister for Foreign Affairs and Cooperation of the Republic of Burundi, made a working visit to Kinshasa from 6 to 8 January 2002.

This visit also responds to the recommendation of the Security Council, expressed in its resolution 1376 (2001) of 9 November 2001, inviting the parties to the Lusaka Agreement to work with the Burundian authorities to advance the peace processes in Burundi and in the Democratic Republic of the Congo, in view of the links existing between the two peace processes.

In the course of this visit, His Excellency the President of the Democratic Republic of the Congo, Major-General Joseph Kabila, granted an audience to the Minister for Foreign Affairs and Cooperation of the Republic of Burundi.

The outcome of the audience with the President of the Democratic Republic of the Congo and the talks held by the two Ministers was as follows:

1. Situation prevailing in the two countries:

With regard to the situation prevailing in the Republic of Burundi and in the Democratic Republic of the Congo, the Governments of the two countries agree:

- To unite their efforts with a view to advancing the peace processes under way; they welcome the progress already made in the context of the implementation of the Arusha and Lusaka Agreements;
- To work together so as to restore the good relations of friendship, good-neighbourliness and cooperation that have always existed between the two countries, to normalize them and henceforth to adhere in that regard to the relevant provisions of the Charters of the United Nations and the Organization of African Unity/African Union (OAU/AU) concerning, in particular, non-use of force and peaceful settlement of disputes;

- To work for the restoration of a climate of mutual trust between the Democratic Republic of Congo and the Republic of Burundi;

- To relaunch bilateral consultation mechanisms and conclude a separate agreement defining the practical modalities for the implementation of the commitments made on 7 January 2002 at Kinshasa, in particular the Non-Aggression Pact, the details of which will be established at the forthcoming meeting of experts;

- To define and put in place an effective surveillance mechanism on their common frontiers.

2. Commitments of the Government of the Democratic Republic of the Congo:

The Government of the Democratic Republic of the Congo undertakes:

- To contribute to the involvement of Burundian rebel groups in the Arusha Agreement process, which remains the only valid framework for consideration of their respective claims;

- To ensure the success of the negotiations to be organized within the framework of the regional initiative between these rebel groups and the transitional Government of Burundi;

- To take steps to ensure that its territory is not a base for armed attacks against Burundi.

3. Commitments of the Government of the Republic of Burundi:

- The Government of the Republic of Burundi formally undertakes to proceed to the effective withdrawal of its troops from Congolese territory in accordance with the relevant provisions of the Charters of the United Nations and OAU/AU and the relevant resolutions of the Security Council as soon as the agreed surveillance mechanism has been put in place within the framework of a bilateral ad hoc agreement.

4. Final provisions:

The Governments of the two countries agreed to the convening in Bujumbura during the second half of February 2002 of a meeting of Congolese and Burundian experts to determine the practical modalities for translating their respective commitments into concrete action.

At the end of his working visit to the Democratic Republic of the Congo, Mr. Thérence Sinunguruza, Minister for Foreign Affairs and Cooperation of the Republic of Burundi, expressed his appreciation to Major-General Joseph Kabila, President of the Democratic Republic of the Congo, and to his Government for the warm and fraternal welcome extended to him and to the members of his delegation during their stay in Kinshasa.

Mr. Thérence Sinunguruza, Minister for Foreign Affairs and Cooperation of the Republic of Burundi, took this opportunity to extend an invitation to Mr. Léonard She Okitundu, Minister for Foreign Affairs and International Cooperation of the Democratic Republic of the Congo, to make a working visit to Bujumbura, which was accepted with pleasure. The date of that visit will be determined by agreement through the diplomatic channel.

Done at Kinshasa on 7 January 2002

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Security Council

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Letter dated 8 January 2002 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General

Upon instructions from my Government and with reference to document A/56/758-S/2001/1262 of 27 December 2001, I have the honour to state the following:

The content of the letter by the representative of Israel is a poor form of propaganda against the Islamic Republic of Iran: taking phrases and statements from the Friday Prayer sermon by Ayatollah Hashemi Rafsanjani on 14 December 2001 out of context, forging and paraphrasing them to fit their ill intentions and presenting them as a threat. The letter clearly shows the extent to which the Israeli officials are prepared to engage in outright deceit, forgery and trickery to achieve their unholy and illegitimate objectives; this time the subject was Iran. This was exactly the point, which Ayatollah Rafsanjani made in his sermon, that for over 50 years Zionism, with colonialists' support, engaged in conspiracy, deceit, forgery and trickery, followed by blatant and persistent violence against the Palestinian people.

In his sermon on 14 December, the "Ghods Day", Ayatollah Rafsanjani presented his historical analysis of the Palestinian experience, Zionist oppression and the possible consequences of a policy of double standard and ensuring an imbalance of power in the Middle East. He implored the West to revise its policy for the sake of peace, justice and stability in the world; for otherwise, he underlined rhetorically, the international community may be on a destructive path leading to World War III, "and this would be the ultimate worst thing that could take place".

His critique of the West also included the fact that by helping Israel to acquire every conceivable weapon of mass destruction, the West is not serious about the imperative of non-proliferation of weapons of mass destruction. He made a strong case for the imperative of a non-discriminatory approach to issues of disarmament and non-proliferation, which should bring Israel into the fold of those who abide by international legal instruments on non-proliferation.

In order to promote a genuine rethinking about international security by supporters of Israel, Ayatollah Rafsanjani presented what he called a "rationally probable" scenario: something which "we (Iran) cannot encourage", but may be the "natural trend of things", in the following terms: "if, one day — and this is extremely important — the Islamic world would, in turn, arm itself with what Israel has today, then the strategy of arrogance will hit a dead end, since the use of a single atom bomb in Israel would leave nothing, while in the Islamic world it would only cause damage, and this is not far from a rational probability ..., but a course of action we cannot encourage. I am talking of a natural trend of things." He then goes on to say that "Iran hopes that the world would not fall into such chaos and instability, which has already cost the international community more than $1,000 billion".

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Comparing this statement with the chapeau of the Israeli letter, where it says that "the Islamic world is arming itself with nuclear weapons in order to destroy Israel and undermine Western interests in the region", and the rest of the letter clearly demonstrates the trickery, deceit and demagoguery of the Israeli regime. This would also reveal the poor propaganda by the Israeli regime to deflect international attention from its acts of State terrorism against the Palestinian people to frivolous and engineered issues.

The practice and position of the Islamic Republic of Iran and its officials, including Ayatollah Hashemi Rafsanjani, in rejecting weapons of mass destruction are well known. The most recent statement of Ayatollah Hashemi Rafsanjani on the subject, dated 6 January 2002, where he reiterates this position in most unequivocal terms, is only the latest example of this longstanding and universally known position.

As a party to the Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological Weapons Convention, the Islamic Republic of Iran, unlike Israel, has committed itself fully to respect the provisions and implement the obligations in these international treaties. More importantly, the Islamic Republic of Iran has a safeguards agreement with the International Atomic Energy Agency, which covers peaceful nuclear activities and programmes, including the Bushehr nuclear power plant in Iran.

As United Nations documents testify, for about three decades Iran has been one of the main sponsors of the proposal for the establishment of a nuclear-weapon-free zone in the Middle East. The Islamic Republic of Iran as well as other States of the region firmly believe that the Israeli clandestine, non-transparent and unsafeguarded nuclear facilities and programmes on weapons of mass destruction constitute a formidable source of threat, instability, tensions and lack of confidence in the Middle East.

The Islamic Republic of Iran strongly supports the proposal for the establishment of the Middle East as a zone free from weapons of mass destruction. We also believe that universal adherence to the Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological Weapons Convention as well as the effective implementation of the Resolution on the Middle East adopted at the 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons would undoubtedly strengthen international peace and security and contribute to the realization of a world free from weapons of mass destruction as an ultimate goal.

The letter by Israel is therefore a pure fabrication designed to defuse the international outrage against it as well as deflect attention abroad. I wish to underline that such propagandist attempts, if continued, may find a life of their own with adverse consequences for the peace and stability of the region, for which Israel will be solely responsible.

I should be grateful if the present letter would be circulated as a document of the Security Council.

(*Signed*) Hadi **Nejad-Hosseinian**
Ambassador
Permanent Representative

United Nations S/2002/38

Security Council

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9 January 2002

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Letter dated 9 January 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1132 (1997) concerning Sierra Leone addressed to the President of the Security Council

On behalf of the Security Council Committee established pursuant to resolution 1132 (1997) concerning Sierra Leone, I have the honour to convey herewith a letter from the Permanent Representative of Sierra Leone dated 24 December 2001, forwarding the third review of the Certificate of Origin regime for the export of Sierra Leone diamonds, as prepared by the Government of Sierra Leone in compliance with paragraph 2 of resolution 1306 (2000) (see annex).

The Committee would appreciate it if the attached letter and its annex could be brought to the attention of the members of the Security Council and issued as a document of the Security Council.

It should also be noted that the following related communications, S/2000/966, S/2000/1151, S/2001/127, S/2001/300 and S/2001/794, were issued previously.

(*Signed*) Jorge Eduardo **Navarrete**
Chairman
Security Council Committee established pursuant to
resolution 1132 (1997) concerning Sierra Leone

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Annex

Letter dated 24 December 2001 from the Permanent Representative of Sierra Leone to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1132 (1997) concerning Sierra Leone

I have the honour to forward herewith the third review of the Certificate of Origin regime for the export of Sierra Leone diamonds, prepared by the Government of Sierra Leone in compliance with paragraph 1 of resolution 1306 (2000) (see enclosure). The review covers the period up to November 2001.

(*Signed*) Ibrahim M. **Kamara**
Ambassador
Permanent Representative

Enclosure

IMPLEMENTATION OF UN SECURITY COUNCIL RESOLUTION 1306 (2000)

THIRD REVIEW OF THE NEW CERTIFICATE OF ORIGIN FOR THE EXPORT OF SIERRA LEONE DIAMONDS

November 2001

A. Introduction

1. This is the third review of the new Certificate of Origin regime established by the Government of Sierra Leone, in compliance with paragraph 2 of Security Council resolution 1306 (2000) of 5 July 2000. Earlier reviews had been issued as documents S/2000/1145 of 4 December 2000, and S/2001/794 of 16 August 2001.

B. Certificate of Origin

2. Since the last review, a total of 71 (seventy-one) new certificates have been issued. This brings the total number of certificates issued since the system came into effect a year ago, to 184 (one hundred and eighty-four).

3. All corresponding Import Information Certificates have been returned to the Government Gold and Diamond Office (GGDO), as required by the export procedure.

4. Digital photographs of rough and uncut diamonds presented to the GDDO for valuation and subsequent export continue to be transmitted electronically from the GGDO to the importing countries with the information contained in the original certificate of origin shipment.

C. Other Measures

(a) Mining and Marketing

5. The process of disarmament and demobilization of ex-combatants is now virtually complete throughout the country, including the main diamond areas such as Kono and Tongo, which had been occupied by the rebels. Since the second review of the Certificate of Origin regime there has been a major breakthrough in the security situation, in particular with the deployment of UNAMSIL in Tongo and Kono. This was followed almost simultaneously with the restoration of civil authority in those areas, the principal source of "conflict" diamonds. Thus, with the re-establishment of effective

government authority, the Ministry of Mineral Resources is about to resume its own administrative, monitoring and enforcement functions in those areas. In its operational plan the Ministry is also, among other things, taking into account the serious environmental impact of indiscriminate rebel mining activities during the past few years.

6. All diamond transactions continue to be effected between holders of valid mining, dealing and exporting licences. This regulation is still being enforced by officials of the Ministry of Mineral Resources, through stringent monitoring in the field and at the GGDO during the exporting of rough and uncut diamonds.

(b) Monitoring

7. A major component for the successful implementation of the certification process is monitoring of mining and trading activities in the country. Since the introduction of the certification scheme, tremendous effort has been made to enhance the effectiveness of the Mines Monitoring Officers. To this end, they were recently equipped with 10 new motorcycles to increase their mobility. The United States Government, through USAID, has also provided the Monitoring Officers with communication equipment, such as radios and mobile radio handsets.

8. In addition, the Ministry of Mineral Resources has provided four mobile phones for use by the Officers at Lungi International Airport, Hastings Airport, the Mammy Yoko Heliport, and the GGDO. The provision of these communication equipment, coupled with the training provided by the USAID, has increased the effectiveness of these officers and has significantly increased the legitimate flow of diamonds.

9. During this period under review, three individuals were arrested for unlawful possession of diamonds. A total of 140 (one hundred and forty) carats valued at US$ 20,000 were confiscated. The culprits were also fined.

D. **Community Development Fund**

10. As reported in the previous review, 25 per cent of total dues paid by exporters to the Government are reserved for a Community Development Fund which will benefit local chiefdoms, based on the number of mining licences issued in the respective chiefdoms. The objective is to encourage community support for legitimate diamond mining activities. In July almost Le 98 million (approximately US$95,160) were distributed to several mining chiefdoms in the Southern and Eastern Provinces.

11. The introduction of the Fund has substantially strengthened the monitoring aspect of the Certification system at the community level. The next disbursement is expected in January 2002.

E. **Banking Guidelines**

12. The banking guidelines have been revised to facilitate and expedite exportation procedures. This development is reflected in the increasing amount of exports through the established legitimate channel in the GGDO. Furthermore, in order to reduce restrictions on the legitimate exporter, the Ministry of Mineral Resources has agreed with the Bank of Sierra Leone to allow Sierra Leonean nationals to purchase diamonds in leones as well as in US dollars.

F. **The Independent Valuator**

13. The Independent Diamond Valuator and his assistant continue to work closely with the GGDO Valuator to ensure that their roles are consistent with the objectives of UN Security Council resolution 1306 (2000). No major differences in valuation or quality identification have been recorded.

G. **The Kimberly Process**

14. Sierra Leone has continued to participate in all meetings of the Kimberley Process, and supports the view that the international certification scheme should, in the near future, stem the flow of rough diamonds illegally mined by rebels and used to overthrow legitimate governments. The scheme should also contribute to international peace and security, and help close loopholes in the diamond smuggling network. The Government believes that the success of the international scheme will depend largely on the integrity and cooperation of the diamond importing countries. They have a special responsibility to devise stringent methods to track diamonds that are not accompanied by authentic national certificates of origin.

H. **Conclusion**

15. The Certification of Origin regime has been in operation for just over a year. Coupled with the re-establishment of Government authority in the main diamond areas, it has contributed to a significant reduction in trade in "conflict" and illicit diamonds from the country. The success of the system continues to be reflected in the increasing quantity and value of diamonds legitimately exported through the system.

16. From January to November 2001, a total of 205,850.49 carats valued at USD$ 23.99 were legally exported. Since the Certification of Origin became operational, 256,132 carats of rough and uncut diamonds valued at US$30.52 million have been exported to various markets in the world, such as Belgium, Israel, the United Kingdom and the United States.

17. The Government of Sierra Leone acknowledges its responsibility in ensuring that its rough diamonds are produced and exported through a credible and effective certification system. It further acknowledges its responsibility to ensure that its diamonds are not used by rebels and others to acquire arms for the purpose of starting

or fuelling armed conflict. At the same time it maintains that strict implementation by diamond importing countries of resolution 1306 (2000) is crucial to international efforts aimed at breaking the link between the trade in conflict diamonds and armed conflict. In this connection, the Government of Sierra Leone is encouraged by recent legislative and other action taken by a number of States concerning conflict diamonds.

18. The Government recalls the reference in resolution 1306 (2000) to the role played by the illicit trade in diamonds in fuelling the conflict in Sierra Leone, and to reports that such diamonds transit neighbouring countries, including Liberia. In this connection it the Government notes that since the submission of its second review of the certification system the report of the Expert Panel established pursuant to resolution 1343 (2001), has been submitted the Security Council. It also takes note of those observations and recommendations contained in the report that have a direct bearing on the situation in Sierra Leone and the illicit trade in Sierra Leone diamonds.

United Nations A/ES-10/137–S/2002/39

General Assembly
Security Council

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General Assembly
Tenth emergency special session
Agenda item 5
Illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory

Security Council
Fifty-seventh year

Identical letters dated 9 January 2002 from the Permanent Observer of Palestine to the United Nations addressed to the Secretary-General and the President of the Security Council

Israeli Prime Minister Ariel Sharon and his government fail to run out of dangerous and malicious declarations, measures and allegations directed against the Palestinian people and the Palestinian Authority. These are reflective of a policy bent on blocking any attempt to end the violence, including implementation of the Mitchell recommendations, and destroying any potential for real peace between the Palestinian and Israeli sides. While Israel, the occupying Power, continues committing war crimes and State terrorism, it also continues to spread accusations of terrorism, to use its military force to prevent the movement of the elected President of the Palestinian Authority, to invent preconditions for implementation of the Mitchell recommendations and to spread unfounded stories aimed at undermining the credibility of the Palestinian Authority.

I would like to refer to the letter by the Israeli Permanent Representative on 4 January 2002 (A/56/766-S/2002/25), which contains the infamous allegation with regard to the "50 tons of offensive weapons" aboard a "ship bound for the Palestinian Authority". The Israeli story defies logic and any common sense. No sane person could imagine this quantity of weapons to be successfully smuggled into Gaza through the many serious barriers, including the Israeli naval siege, irrespective of any talks of floating devices and the like. Neither could any sane person imagine the possible use of weapons such as Katyusha rockets against Israel from a place such as Gaza, without catastrophic results. Furthermore, no sane person can imagine in the circumstances this sort of "military cooperation" between the Islamic Republic of Iran and the Palestinian Authority, which have both denied any involvement.

Several credible sources and reports have indicated that the shipment might have been going to a totally different destination and that the ship might have been loaded in the port of Dubai and not just off the coast of Iran as Israel alleges. As for the presence of Palestinians aboard the ship, including the Captain, the Palestinian Authority has already established a committee to investigate the matter, taking into

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consideration the serious questions raised about the behaviour of the Captain. The Palestinian Authority has called for the cooperation of all interested parties, and that includes Israel, irrespective of its erratic and suspicious behaviour on that matter.

In follow-up to my previous 87 letters to you regarding the ongoing crisis in the Occupied Palestinian Territory, including Jerusalem, dated from 29 September 2000 to 4 January 2002 (A/55/432-S/2000/921; A/55/437-S/2000/930; A/55/450-S/2000/957; A/55/466-S/2000/971; A/55/474-S/2000/984; A/55/490-S/2000/993; A/ES-10/39-S/2000/1015; A/ES-10/40-S/2000/1025; A/ES-10/42-S/2000/1068; A/ES-10/43-S/2000/1078; A/ES-10/44-S/2000/1093; A/ES-10/45-S/2000/1104; A/ES-10/46-S/2000/1107; A/ES-10/47-S/2000/1116; A/ES-10/48-S/2000/1129; A/ES-10/49-S/2000/1154; A/ES-10/50-S/2000/1173; A/ES-10/51-S/2000/1185; A/ES-10/52-S/2000/1206; A/ES-10/53-S/2000/1247; A/ES-10/54-S/2001/7; A/ES-10/55-S/2001/33; A/ES-10/56-S/2001/50; A/ES-10/57-S/2001/101; A/ES-10/58-S/2001/131; A/ES-10/59-S/2001/156; A/ES-10/60-S/2001/175; A/ES-10/61-S/2001/189; A/ES-10/64-S/2001/209; A/ES-10/65-S/2001/226; A/ES-10/66-S/2001/239; A/ES-10/67-S/2001/255; A/ES-10/68-S/2001/284; A/ES-10/69-S/2001/295; A/ES-10/70-S/2001/304; A/ES-10/71-S/2001/314; A/ES-10/72-S/2001/332; A/ES-10/75-S/2001/352; A/ES-10/76-S/2001/372; A/ES-10/79-S/2001/418; A/ES-10/80-S/2001/432; A/ES-10/81-S/2001/447; A/ES-10/82-S/2001/463; A/ES-10/83-S/2001/471; A/ES-10/84-S/2001/479; A/ES-10/85-S/2001/486; A/ES-10/86-S/2001/496; A/ES-10/87-S/2001/504; A/ES-10/88-S/2001/508; A/ES-10/89-S/2001/544; A/ES-10/90-S/2001/586; A/ES-10/91-S/2001/605; A/ES-10/92-S/2001/629; A/ES-10/93-S/2001/657; A/ES-10/94-S/2001/669; A/ES-10/95-S/2001/686; A/ES-10/96-S/2001/697; A/ES-10/97-S/2001/708; A/ES-10/98-S/2001/717; A/ES-10/99-S/2001/742; A/ES-10/100-S/2001/754; A/ES-10/101-S/2001/783; A/ES-10/102-S/2001/785; A/ES-10/103-S/2001/798; A/ES-10/104-S/2001/812; A/ES-10/105-S/2001/814; A/ES-10/107-S/2001/821; A/ES-10/108-S/2001/826; A/ES-10/111-S/2001/880; A/ES-10/112-S/2001/918; A/ES-10/114-S/2001/928; A/ES-10/115-S/2001/932; A/ES-10/116-S/2001/941; A/ES-10/117-S/2001/971; A/ES-10/118-S/2001/989; A/ES-10/119-S/2001/991; A/ES-10/121-S/2001/1007; A/ES-10/122-S/2001/1024; A/ES-10/123-S/2001/1036; A/ES-10/124-S/2001/1084; A/ES-10/125-S/2001/1092; A/ES-10/126-S/2001/1118; A/ES-10/128-S/2001/1149; A/ES-10/129-S/2001/1166; A/ES-10/133-S/2001/1239; A/ES-10/134-S/2001/1261 and A/ES-10/136-S/2002/18), I also regret to inform you that two more Palestinians have been killed by the Israeli occupying forces, raising the total number of Palestinians killed since 28 September 2001 to 844 martyrs. (The names of the martyrs are contained in the annex to the present letter.)

I would be grateful if you would arrange to have the text of the present letter and its annex distributed as a document of the tenth emergency special session of the General Assembly, under agenda item 5, and of the Security Council.

(*Signed*) Dr. Nasser **Al-Kidwa**
Ambassador
Permanent Observer of Palestine to the United Nations

Annex to the identical letters dated 9 January 2002 from the Permanent Observer of Palestine to the United Nations addressed to the Secretary-General and the President of the Security Council

Names of martyrs killed by Israeli occupying forces in the Occupied Palestinian Territory, including Jerusalem[a] (Friday, 4 January, to Wednesday, 9 January 2002)

Friday, 4 January 2002

Nael Tahseen Ramadan

Wednesday, 9 January 2002

Shadi Ahmad Mussalim (from wounds sustained on 15 December 2001)

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[a] The total number of Palestinian martyrs killed by Israeli occupying forces since 28 September 2000 is 844.

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Security Council

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Letter dated 9 January 2002 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General

I have the honour to inform you that the Government of Lebanon hereby requests the Security Council to extend the mandate of the United Nations Interim Force in Lebanon (UNIFIL), which expires on 31 January 2002, for a further interim period of six months in accordance with the provisions of Security Council resolutions 425 (1978) and 426 (1978). It does so in view of the fact that the continued deployment of the Force remains necessary if it is to complete the task entrusted to it, given that, as per your pertinent observations in various reports, an important part of its mandate has not yet been fulfilled, particularly "the restoration of international peace and security", and especially in the light of the serious violations and provocations in which Israel engages on a daily basis on land, at sea and in the air and which constitute ongoing aggression against Lebanese sovereignty and are in breach of Security Council resolution 425 (1978).

In this context, Lebanon stresses the need and importance of the presence of UNIFIL without any change to its strength and its mandate as set out in resolutions 425 (1978) and 426 (1978), especially in the light of the conditions prevailing in the area, to which you previously alluded and which have become, as you are aware, dangerous and fraught with grave implications.

Given the foregoing, it is my Government's belief that any eventual reconfiguration of the Force would undermine the sense of security and safety and would hinder the full, effective and efficient implementation of its mandate.

Moreover, the Government of Lebanon wishes to emphasize that the deployment of UNIFIL exemplifies the commitment of the international community to the restoration of the full sovereignty and territorial integrity of Lebanon, as stipulated in resolutions 425 (1978) and 426 (1978).

Lebanon hereby calls for the release of those who have for years been detained in Israeli prisons illegally and in defiance of the Geneva Conventions of 1949 and their Additional Protocols. It urgently demands the removal of the thousands of mines, left in Lebanese territory by the Israeli occupation, which continue to bring death and injury to civilians and to restrict their freedom of activity and movement.

I take this opportunity to reaffirm Lebanon's commitment to the peace process in the Middle East with a view to the achievement of a comprehensive, just and lasting peace in the region based on compliance with Security Council resolutions

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242 (1967) and 338 (1973) and the principle of land for peace, in accordance with the Madrid terms of reference.

The Lebanese Government also takes this opportunity to pay tribute to UNIFIL and to its commanders and soldiers, as well as to the troop-contributing countries, for their tireless efforts and the sacrifices they have made to implement the mandate of the Force.

Furthermore, the Government of Lebanon wishes to convey to you its appreciation for your tireless efforts, which contribute to the valuable presence of UNIFIL in southern Lebanon.

I should be grateful if you would have the text of the present letter circulated as a document of the Security Council.

(*Signed*) Selim **Tadmoury**
Ambassador
Permanent Representative

United Nations S/2002/41

Security Council

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10 January 2002

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Interim report of the Secretary-General on the situation concerning Western Sahara

I. Introduction

1. The present report is submitted pursuant to Security Council resolution 1380 (2001) of 27 November 2001, by which the Council, taking note of my letter to the President of the Security Council dated 12 November 2001 (S/2001/1067), extended the mandate of the United Nations Mission for the Referendum in Western Sahara (MINURSO) until 28 February 2002. The Council requested me to keep it informed of all significant developments in an interim report by 15 January 2002 and to provide an assessment of the situation by 18 February 2002.

2. By its resolution 1359 (2001) of 29 June 2001, the Security Council supported fully my efforts to invite all the parties to meet directly or through proximity talks, under the auspices of my Personal Envoy, James A. Baker III, and encouraged them to discuss the draft Framework Agreement and to negotiate any specific changes they would like to see in it, as well as to discuss any other proposal for a political solution which might be put forward by the parties, to arrive at a mutually acceptable agreement. The Council affirmed that, while those discussions went on, the official proposals submitted by the Frente Popular para la Liberación de Saguía el-Hamra y del Río de Oro (Frente POLISARIO) to overcome the obstacles preventing implementation of the settlement plan (S/21360 and S/22464 and Corr.1) would be considered. The present report covers developments since my previous report to the Council, dated 20 June 2001 (S/2001/613).

II. Activities of the Personal Envoy of the Secretary-General

3. During the reporting period, my Personal Envoy, James A. Baker III, invited the Governments of Algeria and Mauritania and the leadership of the Frente POLISARIO to send delegations to meet with him in Pinedale, Wyoming, United States of America, from 27 to 29 August 2001. In his letters of invitation, my Personal Envoy expressed the hope that Algeria, Mauritania and the Frente POLISARIO would discuss with specificity the elements of the draft Framework Agreement in order to reach an early, durable and agreed resolution of the conflict over Western Sahara. He explained that the Government of Morocco was not being invited to that meeting, since it had indicated to him that it was prepared to support the draft Framework Agreement. He advised of his intention to confer with the Government of Morocco about any proposed changes, after hearing the views of the Governments of Algeria and Mauritania, as well as those of the Frente POLISARIO. In his letter to the Frente POLISARIO, my Personal Envoy indicated that the latter's official proposals of 28 May 2001 (S/2001/613, annex IV), aimed at overcoming the obstacles to the implementation of the settlement plan, would also be considered at the meeting.

4. In Wyoming, after an introductory gathering with all three delegations, my Personal Envoy first met with the Frente POLISARIO to consider in detail its proposals of 28 May 2001. The Mauritanian delegation was present at that meeting. My Personal Envoy asked for clarifications about some of the proposals, while commending the Frente POLISARIO for some of its

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concessions aimed at facilitating the resumption of the implementation of the settlement plan. He pointed out that the concurrence of the Government of Morocco would be required in order for some of the proposals to be implemented. He also pointed out that other Frente POLISARIO proposals would require action by the Security Council under Chapter VII of the Charter of the United Nations.

5. My Personal Envoy met separately with the Algerian delegation to discuss the draft Framework Agreement. The Algerian delegation reiterated its general views on and objections to the proposed document. It did not engage in a specific and detailed discussion about it as requested by my Personal Envoy, but indicated that it would send him specific clarifications shortly.

6. My Personal Envoy then met again with the Frente POLISARIO delegation to discuss the draft Framework Agreement. The Mauritanian delegation also attended that meeting. As in his meeting with the Algerian delegation, my Personal Envoy asked for an open and frank discussion, with assurances that no issue would be considered as finally agreed until all issues were agreed. He expressed the hope that the Frente POLISARIO representatives would point to specific problems about the draft Framework Agreement, presenting their own proposals if possible.

7. The Frente POLISARIO delegation stated that it did not wish to engage in a specific and detailed discussion on the draft Framework Agreement. It expressed the view that the provisions of that document would lead to the integration of Western Sahara with Morocco. The delegation nevertheless promised to provide my Personal Envoy with detailed clarifications at a later stage, after conferring with its leadership.

8. The Mauritanian delegation assured my Personal Envoy of its Government's support for any solution to the problem of Western Sahara that would promote peace and stability in the region and have the support of the parties.

9. Subsequently, on 4 October 2001, the Secretary-General of the Frente POLISARIO, Mohamed Abdelaziz, submitted to my Personal Envoy a memorandum containing the position of the Frente POLISARIO on the draft Framework Agreement (see annex I to the present report).

10. On 7 October, President Bouteflika provided my Personal Envoy with the comments of the Government of Algeria on the draft Framework Agreement (see annex II to the present report).

11. On 31 October, my Personal Envoy forwarded to the Government of Morocco the comments and observations received from the Frente POLISARIO and Algeria, with a request that it provide him with its own comments and observations. At the same time, he advised that, at the Wyoming meeting, he had discussed with the Frente POLISARIO its proposals to overcome the obstacles to the implementation of the settlement plan and had commended it for some of the concessions made. Since the concurrence of the Government of Morocco would be necessary to implement some of those proposals, he asked that the Government revert to him at its earliest convenience, with its own comments and observations on the Frente POLISARIO proposals.

12. On 10 November, the Permanent Representative of Morocco to the United Nations forwarded the observations of his Government on the comments of Algeria and of the Frente POLISARIO concerning the draft Framework Agreement, as well as on the latter's proposals to overcome the obstacles in the implementation of the settlement plan (see annex III to the present report).

III. The ceasefire and other aspects of the settlement plan

13. During the reporting period, and until the expiration of his appointment on 30 November 2001, my Special Representative, William Eagleton, continued his consultations with the Government of Morocco and the Frente POLISARIO on the current state of affairs and the peace process in Western Sahara. He also met with the Algerian and Mauritanian authorities.

14. On 30 October 2001, I informed the Security Council of my decision to appoint William L. Swing (United States of America) as my Special Representative for Western Sahara (S/2001/1041). The President of the Security Council responded on 2 November (S/2001/1042). Mr. Swing assumed his functions in the mission area on 11 December 2001, and has since visited Rabat and the Tindouf area of

Algeria, for introductory calls on the Moroccan authorities and on the Frente POLISARIO leadership.

A. Appeals process

15. During the reporting period, the Identification Commission continued to consolidate and collate all data on applicants to the referendum, collected during their identification and the submission of appeals. The Commission proceeded with the electronic archiving of individual files, which is essential to preserving those data, including photographs and fingerprints. All appellants' claims of having family members included in the provisional voters list have also been researched. The Acting Chairman of the Commission at MINURSO headquarters in Laayoune and the office of the Commission in Tindouf continued to maintain contacts with the coordinators of the two parties.

16. Pending the resolution of outstanding issues that may enable the resumption of the appeals process, the Identification Commission will maintain a core of some 40 staff to undertake the essential activities outlined above.

B. Military aspects

17. As at 4 January 2002, the military component of MINURSO stood at the authorized strength of 230 military personnel (see annex IV). Under the command of Brigadier-General Claude Buze (Belgium), the military component continued to monitor the ceasefire between the Royal Moroccan Army and the Frente POLISARIO military forces, which has been in effect for the past 10 years, since 6 September 1991. There has been no indication on the ground that either side intends to resume hostilities in the near future.

18. During the reporting period, discussions continued between MINURSO and the Frente POLISARIO, at various levels, with a view to easing or lifting the restrictions imposed by the latter on the freedom of movement of United Nations military observers east of the defensive sand-wall (berm) since January 2001. As reported to the Security Council since then (S/2001/148, S/2001/398 and S/2001/613), MINURSO ground patrols are usually not allowed closer than 800 metres to Frente POLISARIO combat units or observation posts and are required to be escorted at all times by Frente POLISARIO liaison officers. Large tracts of land south and east of the MINURSO team site at Agwanit are still out of bounds. MINURSO air reconnaissance remains limited to the 30-kilometre restricted area immediately east of the berm and has to follow air routes approved by the Frente POLISARIO. Despite the efforts of MINURSO, no significant progress can be reported towards the lifting of those restrictions. I call upon the Frente POLISARIO to cooperate to that effect.

19. On the western side of the berm, MINURSO military patrols continued to visit and inspect Royal Moroccan Army ground units larger than company size, in accordance with the ceasefire arrangements between MINURSO and the Royal Moroccan Army. From 22 May to 25 October 2001, MINURSO monitored and confirmed the destruction, by the Royal Moroccan Army, of four TOW missiles, two anti-tank mines and 462 detonators and munitions in the Ankesh, Laayoune and Dakhla areas, during six destruction operations.

20. Since my report of 20 June 2001 to the Security Council (S/2001/613), MINURSO military patrols have observed no further roadwork in the Guerguerat area of Western Sahara, at the south-western tip of the Territory. In April-May 2001, Moroccan military authorities had begun preparations for the construction of an asphalted road towards the Mauritanian border, but suspended them at the request of MINURSO and several Member States.

21. The restrictions outlined in paragraph 18 above resulted to a large extent from the passage of the Paris-Dakar rally through Western Sahara in early January 2001, which had raised tensions in the region at the time (see S/2001/148). For the 2002 event, the rally organizers sought from both parties their permission to use the same route as last year, but without an overnight stop in the Territory. As was eventually agreed, the rally undertook a simple liaison transfer across the Territory during the night of 3 to 4 January 2002. No incident was reported.

C. Civilian police aspects

22. As at 4 January 2002, the strength of the civilian police component of MINURSO stood at 26 officers (see annex IV), under the command of Inspector General Om Prakash Rathor (India). MINURSO civilian police officers continued to protect files and

sensitive materials at the Identification Commission centres at Laayoune and Tindouf and to undertake training and planning activities. In that respect, MINURSO civilian police officers continued to attend briefings by the Liaison Office of the Office of the United Nations High Commissioner for Refugees (UNHCR) in Laayoune, on the protection content of voluntary repatriation and on international instruments concerning refugees.

D. Preparatory work for the repatriation of Saharan refugees

23. During the reporting period, UNHCR continued to carry out its mandated responsibilities for the refugees in the Tindouf camps and to coordinate with MINURSO. On 22 July 2001, UNHCR conducted a meeting of its Humanitarian Working Group in Algiers, aimed at maintaining active focus on the needs of Western Saharan refugees. In addition to the World Food Programme (WFP) and the European Commission Humanitarian Aid Office (ECHO), representatives of 18 donor countries also attended the meeting. On 13 September 2001, UNHCR discussed with the Secretariat its plan for cross-border confidence-building measures for the Western Saharan refugees. UNHCR intends to discuss further with the parties the modalities for implementing that plan, with a view to bringing about its early implementation.

24. On 26 and 27 October 2001, UNHCR conducted a coordination workshop with its implementing partners, ECHO and WFP, and with refugees, to set up a mechanism for planning, monitoring and evaluating the assistance programme. UNHCR and its implementing partners have ensured adequate water development and supply at two Tindouf camps and are pursuing joint efforts to achieve the same objective at the other two camps in the area.

25. UNHCR, together with partner agencies, held regular food coordination and planning meetings in Algiers and in the Tindouf area. However, as a result of financial constraints, there was a shortage of basic food supplies at the end of 2001. UNHCR and WFP are conducting planning and donor sensitization efforts, to be able to continue to provide adequate assistance to the refugees in 2002.

E. Prisoners of war, persons unaccounted for and detainees

26. In its resolution 1359 (2001), the Security Council urged the parties to solve the problem of the fate of people unaccounted for and called upon them to abide by their obligations under international humanitarian law to release without further delay all those held since the start of the conflict.

27. From 2 to 6 November 2001, a representative of the International Committee of the Red Cross (ICRC) met with and interviewed in Laayoune 23 former Frente POLISARIO combatants who had been unaccounted for, as well as the spouse of another who had been out of Laayoune at the time of the ICRC visit. The Frente POLISARIO had submitted tracing requests for all of them. In addition, on 6 November, Morocco released 25 Saharan detainees, including 24 civilians arrested since 1999 and one military personnel arrested in 1979 and serving a life sentence.

28. From 20 November to 3 December 2001, an ICRC team visited the remaining 1,477 prisoners of war held by the Frente POLISARIO, providing them with medical and mail services. During the visit, ICRC was informed by the Frente POLISARIO that one prisoner had recently died and another had escaped, which accounted for the decrease in the number of prisoners by two since May 2001.

29. On 2 January 2002, the Frente POLISARIO announced its decision to release 115 prisoners of war. It is expected that they will be repatriated shortly, under the auspices of ICRC.

F. Organization of African Unity

30. The observer delegation of the Organization of African Unity (OAU) to MINURSO, led by the Senior Representative, Ambassador Yilma Tadesse (Ethiopia), continues to provide valuable support to the Mission. I wish to reiterate my appreciation for the contribution of OAU.

IV. Other developments

31. On 22 October, in a message addressed to me, the Secretary-General of the Frente POLISARIO expressed his concerns over certain recent developments in

Western Sahara, in particular the signing of contracts by Morocco with two foreign oil companies for offshore oil reconnaissance in Western Sahara.

32. On 17 November, demonstrations took place in the town of Smara, resulting in clashes with security forces and arrests of several dozen demonstrators. Fifteen of the arrested are currently under detention awaiting trial in Laayoune. Calm was restored the following day. In a letter to me, the Secretary-General of POLISARIO protested these events.

V. Financial aspects

33. The General Assembly, by its resolution 55/262 of 14 June 2001, appropriated the amount of $48.8 million, equivalent to a monthly rate of some $4.1 million, for the maintenance of MINURSO for the period from 1 July 2001 to 30 June 2002. In connection with the reduction of personnel in the Identification Commission, as well as other related cost reductions, I shall continue to reassess the resource requirements of the Mission and revert to the General Assembly with consequential adjustments, if necessary.

34. As at 15 December 2001, unpaid assessed contributions to the special account for MINURSO amounted to $83.8 million. The total outstanding assessed contributions for all peacekeeping operations at that date amounted to $1,979.1 million.

VI. Observations

35. Pursuant to Security Council resolutions 1359 (2001) and 1380 (2001), I intend to provide, before the end of the present mandate of MINURSO on 28 February 2002, an assessment of the situation and, as appropriate, recommendations on the future mandate and composition of MINURSO. In the meantime, I count on Morocco and on the Frente POLISARIO, as well as on Algeria and Mauritania, to continue to cooperate with my Personal Envoy in his efforts to find an early, durable and agreed resolution of the conflict over Western Sahara.

36. While the recent release of a number of Moroccan prisoners of war, as well as Saharan detainees, is a positive development, the continued detention of over 1,350 prisoners of war, most of them for more than 20 years, is a serious humanitarian issue. I once again join ICRC in calling upon the Frente POLISARIO to release all of them without further delay.

37. The situation of the Saharan refugees in the Tindouf camps is also a matter of growing concern. I appeal to the international community to provide generous support to UNHCR and WFP, in order to meet the humanitarian needs of those refugees until their voluntary and durable return to the Territory. At the same time, I expect that Morocco and the Frente POLISARIO will extend their full cooperation to enable UNHCR to implement confidence-building measures, as called for by the Security Council in its resolution 1263 (1999) of 13 September 1999.

38. In closing, I would like to pay tribute to my former Special Representative, William Eagleton, for the efforts he has devoted to the cause of peace in Western Sahara. I commend him for the leadership he has displayed and for the dedication and professionalism with which he has undertaken his mission.

Annex I

Memorandum from the Frente Popular para la Liberación de Saguía el-Hamra y del Río de Oro (Frente POLISARIO)

[Original: French]

As a decolonization problem, the question of Western Sahara has regularly been included in the United Nations agenda since 1966.

This consideration of the question by the United Nations has enabled the international community to establish clearly and affirm forcefully that the Saharan people have the right to self-determination under General Assembly resolution 1514 (XIV), which advocates the self-determination of peoples under colonial domination.

The efforts by both the United Nations and the Organization of African Unity relating to Western Sahara have aimed essentially to create favourable conditions for the Saharan people to exercise their right to self-determination.

All these efforts culminated in the adoption of a settlement plan whose chief objective was the organization and holding of a "free, fair and impartial referendum for the self-determination of the people of Western Sahara".

The settlement plan was confirmed by the Houston Agreements, which were accepted by both parties and endorsed by the United Nations. In the report he submitted to the Security Council following the signature of the Agreements, the Secretary-General explicitly recognized that the obstacles to the implementation of the settlement plan had been overcome.

The initiatives since 1997 by the Secretary-General's Personal Envoy, Mr. James Baker III, have served to further the peace process undertaken by the United Nations.

The Houston Agreements have questionably led to undeniable advances, particularly the identification of all persons who have submitted a request to that effect to the Identification Commission, the publication of the provisional voter list, the establishment of an appeals procedure and the pre-registration of most of the refugees by the Office of the United Nations High Commissioner for Refugees (UNHCR) with a view to their repatriation.

Capitalizing on those advances, the Security Council has, since the Houston Agreements, twice set a date for the referendum (December 1998 and July 2000). Security Council resolutions 1238 (1999) and 1263 (1999) indicated to the parties its expectation that the appeals process would not be turned into a second round of identification. Despite these positive developments, Morocco resorted to various subterfuges, particularly the inundation of the Identification Commission with over 130,000 appeals, in order to neutralize United Nations action and counter its initiatives.

Faced with that situation, the Security Council adopted resolutions 1342 (2001) and 1349 (2001) expressing its expectation that "the parties ... will continue to try to resolve the multiple problems relating to the implementation of the Settlement Plan and try to agree upon a mutually acceptable political solution to their dispute over Western Sahara".

The Frente POLISARIO itself has constantly sought to facilitate the implementation of the settlement plan and thereby bring about a just and durable peace in Western Sahara. This readiness on its part was clearly expressed in the memorandum submitted to the Personal Envoy in London in June 2000 as well as during the Geneva and Berlin meetings held, respectively, in July and September 2000. By underscoring that readiness, the Saharan party reaffirmed that it was disposed to consider seriously and responsibly any suggestion made by the United Nations or by the other party for resolving the difficulties that prevented the referendum from being organized and held.

Accordingly, the Frente POLISARIO, as a sign of its good will and spirit of compromise, submitted proposals on 31 May 2001 for overcoming the actual or potential obstacles hindering the implementation of the settlement plan, especially those resulting from Morocco's introduction of tens of thousands of appeals.

Instead of giving proper recognition to these efforts by the Saharan party and furthering the dynamics of peace, Morocco has, contrary to all expectations, deliberately chosen to block the referendum process and renege on its earlier commitments. Rather than endeavouring to put into effect the appeals protocols, the Secretariat has taken a wait-and-see attitude designed to make it less likely that the settlement plan will be implemented and to shift the efforts to resolve the conflict towards a possible third alternative. Thus, a draft "framework agreement on the status of Western Sahara" is being advocated, which constitutes a serious departure from the agreed process and from the approach followed by the United Nations for the last three decades to bring about the decolonization of Western Sahara.

Beyond its express provisions, this proposed framework agreement in reality seeks to confer on the occupier the authority of an "administrative power" and unduly opens the door to giving Morocco a putative right to delegate powers it does not have, to the so called "inhabitants of the Territory" of Western Sahara. Such an arrangement clearly violates the sacred right of the Saharan people to determine their own fate and runs counter to the mandate given to the Secretary-General of the United Nations.

There can be no question that Morocco, as the occupying Power, whose presence in Western Sahara has not been recognized by any international organization, cannot claim that it has any standing whatsoever as an "administrative power", let alone that it has the power to "delegate" rights that arise naturally from the sovereign attributes of the Saharan people.

By conferring on Morocco exclusive competence over "the preservation of the territorial integrity against secessionist attempts whether from within or without the territory" and by allowing it to maintain its troops, police, administration and authority in the Territory, the proposed framework agreement in effect grants Morocco the attributes of sovereignty, especially since, in the words of the draft, "all laws ... and all decisions of the courts must respect and comply with the constitution of the Kingdom of Morocco ...".

Moreover, the progress made in voter identification, an undeniable achievement, is completely wiped out by the proposed framework agreement. By replacing the notion of the "Saharan people" with the concept of the "population of Western Sahara", the draft agreement challenges the validity of all the criteria established by the United Nations for determining voter qualifications. In so doing,

the draft agreement sets the stage for integrating Western Sahara into Morocco, not only given the massive presence of Moroccan settlers now in the Territory, but also because of the possibility that new migratory flows might occur during the transitional period.

The proposed framework agreement, if it were put into effect, could make the integration of the Territory of Western Sahara into Morocco an accepted principle. That this is so is evident especially in the recent statements by the highest Moroccan authorities, from King Mohamed VI on down.

It is therefore obvious that the proposed framework agreement, which is silent on the inalienable right of the Saharan people to self-determination, makes a mockery of principles to which the international community is committed, especially the Saharan people's right to freedom of expression through a "free, fair and impartial referendum". Moreover, the proposed agreement unquestionably paves the way for the precipitous integration of the Saharan Territory into Morocco. What Morocco has been unable to accomplish by force or through the ballot box might be brought about by implementing the proposed framework agreement.

Since this is its assessment of the situation, the Frente POLISARIO is convinced that the differences that exist between the parties cannot be used as a pretext for suspending the implementation of the settlement plan. Too much progress has been achieved in putting it into effect to justify abandoning it and replacing it with an approach that is in flagrant violation of the thinking and principles that have always prevailed in the decolonization work of the United Nations.

The United Nations must at all costs continue trying to implement the settlement plan, because experience has shown in such situations that whenever there was the political will and the United Nations endeavoured to bridge the gap between differing viewpoints, the most insurmountable obstacles and difficulties gave way to consensus solutions. The refusal of one party to cooperate in pursuing the implementation of the settlement plan cannot be an argument for abandoning it, for that would be tantamount to giving a disproportionate voice to Morocco, which might avail itself of that power each time a proposal did not coincide with its own interests.

Beyond the fact that it is biased and unfair, the draft framework agreement sets a bad precedent, to the extent that it rewards aggression and intransigence.

The Frente POLISARIO has categorically rejected the draft framework agreement, and in taking that position officially has explained the reasons why, which come down mainly to the fact that the proposed agreement in no way guarantees that the Saharan people will exercise that right to self-determination, but in reality paves the way for a programmed annexation of Western Sahara by the Kingdom of Morocco.

Utterly convinced that the draft framework agreement does not offer a basis for settling the Western Sahara problem or even a means of relaunching negotiations, the Frente POLISARIO, in a responsible spirit of compromise, made a point of providing the necessary clarifications during the meeting in Pinedale, Wyoming, from 27 to 29 August 2001, and making specific proposals that should make it possible to revive the settlement plan. During those consultations, the Frente POLISARIO also laid out its position regarding post-referendum guarantees that must be assured as part of the overall search for a solution.

In making these proposals, the Frente POLISARIO once again underscores its complete readiness to cooperate with the Secretary-General's Personal Envoy, Mr. James Baker III, in whom once again he expresses confidence while thanking him for the efforts he is making to promote a just and durable solution to this conflict. The Frente POLISARIO also undertakes to cooperate with the United Nations in any effort that will enable the implementation of the settlement plan to be resumed. Similarly, it reaffirms its support for any approach leading to a solution that guarantees the sacred right of the Saharan people to self-determination.

Annex II

Comments by the Government of Algeria on the draft framework agreement on the status of Western Sahara

[Original: French]

In its memorandum addressed to the Secretary-General of the United Nations and to his Personal Envoy on 22 May 2001, Algeria set forth and explained in a clear and detailed manner its objections to the proposals for the settlement of the question of Western Sahara contained in the draft framework agreement on the status of the Territory.

In this document, following a long and rigorous exposition, Algeria concluded that the draft framework agreement would confirm the illegal occupation of the Territory of Western Sahara by providing for its integration into the Kingdom of Morocco; this would be in violation not only of the Charter of the United Nations but also of the doctrine of the Organization in the area of decolonization, all its relevant resolutions, including resolution 1514 (XV) containing the Declaration on the Granting of Independence to Colonial Countries and Peoples, and also the commitments to the genuine self-determination of the Saharan people which have been constantly reaffirmed by the two parties themselves (particularly in the Houston Agreements) and by the international community represented by the General Assembly and the Security Council.

In other words, Algeria, in its memorandum, found that the draft framework agreement would seriously undermine the non-self-governing status of the Territory, thereby constituting a grave violation of the inalienable right of the Saharan people to self-determination and an outright negation of the Saharan people.

In total, the approach defined in the draft framework agreement would call in question the responsibility of the United Nations vis-à-vis the people of Western Sahara and is clearly not conducive to finding an equitable and lasting solution to the conflict in Western Sahara.

Having been invited by the Personal Envoy of the Secretary-General of the United Nations to take part in the talks organized in Pinedale, Wyoming from 27 to 29 August 2001 in implementation of Security Council resolution 1359 (2001), Algeria at that time reiterated the reasons for its objection to the draft framework agreement.

The Algerian delegation also carried out with the Personal Envoy of the Secretary-General a critical analysis of the draft framework agreement, and explained Algeria's views on the conditions which needed to be met for the organization of a referendum on the self-determination of the people of Western Sahara, which is still the only way of settling this question in an equitable and lasting manner.

In response to the request by the Personal Envoy, whose efforts it commends and whom it assures of its support, Algeria is reproducing below, in writing, the comments and views which its delegation put forward during the talks held in Pinedale, Wyoming.

1. Algeria stands by the objections set forth in its memorandum of 22 May 2001. By way of reminder, it believes, in particular, that the approach taken in the draft

framework agreement is based on a negation of the status of Western Sahara as a Non-Self-Governing Territory, which since 1966 has been included on the list of such Territories maintained by the United Nations.

2. This approach leads to a form of recognition of the "sovereignty" of the occupying Power in the Territory, this occupying Power having been requested to undertake a "devolution of authority" in the context of the plan for "autonomy". Hence, and because it is based on an illegal premise, the approach of the draft framework agreement is itself unacceptable.

3. The draft framework agreement places on an equal footing the Saharans who are recognized as such and are included in the lists already drawn up by the Identification Commission and the new residents settled since the illegal occupation of the Territory. Thus, given that they will be deciding on the future of their Territory, the Saharan people will be deprived of their right of self-determination since they will not be able to exercise that right on an exclusive and independent basis.

4. Lastly, the approach contained in the draft framework agreement is unacceptable because it makes an unjustified and inappropriate choice between, on the one hand, the right to self-determination of the Saharan people, which is a matter of contemporary international legality, and, on the other, a logic based on "historical rights" aimed at confirming the integration of the Territory into the Kingdom of Morocco by making it an accomplished fact.

5. Meanwhile, this logic was recently confirmed in the comments made by the Moroccan sovereign to the French newspaper *Le Figaro* of 4 September 2001 when he said: "... I have settled the question of the Sahara which has been consuming us for the past 25 years ... We have worked hard and in the strictest confidentiality for 18 months to ensure that the 11 members of the United Nations Security Council recognize the legitimacy of Moroccan sovereignty over Western Sahara ... We agree that an equitable solution should be found within the framework of Moroccan sovereignty ...".

6. Far from achieving an equitable and lasting settlement of the conflict, the course suggested in the draft framework agreement would thus confront the international community with even greater difficulties than those which had so far hindered the implementation of the settlement plan and the agreements which had, nevertheless, been negotiated, accepted and signed by the two parties with a view to the holding of a free, fair and impartial referendum for the self-determination of the people of Western Sahara, organized and monitored by the United Nations.

7. While maintaining its objection to the very approach of "autonomy" and to its declared aim, namely "a referendum on the status of the Territory", Algeria reiterates that an equitable and lasting solution to the conflict in Western Sahara must meet an imperative objective, which is still the exercise by the people of Western Sahara of their inalienable right to self-determination. This objective is supported by the international community; it was reaffirmed by the Security Council in resolution 1359 in which it reiterated its "full support for the ongoing efforts of the United Nations Mission for the Referendum in Western Sahara (MINURSO) to implement the Settlement Plan and agreements adopted by the parties to hold a free, fair and impartial referendum for the self-determination of the people of the Western Sahara".

8. It is for this reason that Algeria believes that, in order to overcome the persistent disagreements between the two parties, and rather than resorting to a period of so-called "autonomy", it would be better for the United Nations to take sovereign responsibility for the implementation of its own settlement plan for the conflict in Western Sahara which has already been accepted by the two parties.

9. In this respect, the United Nations should initiate a short transition period during which the Territory of Western Sahara would be placed under its exclusive authority and administration. Such a period would be more conducive to building trust between the two parties under the impartial aegis of the United Nations and at the same time would make it possible, inter alia, to resolve the question of pending appeals before the Identification Commission in a calmer atmosphere.

10. Before this transition period, objective conditions would have to be met, in line with the status of the Territory as a Non-Self-Governing Territory. To this end, it will be necessary to implement the measures already accepted by the two parties, in particular:

10.1 The orderly withdrawal of Moroccan troops from Western Sahara and the cantonment of the personnel authorized to remain there under the supervision of MINURSO, along with the cantonment of the military forces of the Frente POLISARIO, in accordance with the agreements already concluded between the two parties. This preliminary measure would be all the more necessary in that the transition period would involve the final passage from the stage of a mere ceasefire to that of the final resolution of the conflict;

10.2 The dismantling and disarming of the paramilitary forces of the occupying Power in the interior of the Territory of Western Sahara and the repeal of the laws and regulations impeding freedom of movement;

10.3 Demining throughout the Territory and particularly along the ceasefire line;

10.4 The release of prisoners of war and political prisoners by each of the two parties in accordance with the provisions already agreed upon to this end.

11. During the transition period, the United Nations will have exclusive responsibility for:

11.1 Administering the Territory of Western Sahara;

11.2 Preserving security, peace and order in the Territory;

11.3 Ensuring the preservation and protection of human rights and fundamental freedoms without discrimination of any kind;

11.4 Promulgating all regulations relating to the organization and conduct of the referendum on self-determination;

11.5 Upholding and preserving the law in an impartial and objective manner;

11.6 Ensuring, in accordance with the commitments undertaken by the two parties, the repatriation of refugees with a view to their participation in the referendum on self-determination;

11.7 Monitoring the conduct of the referendum campaign while respecting the commitments already made by the two parties and laid down in the code of conduct;

11.8 Organizing and monitoring the entire process of the referendum on self-determination in accordance with the provisions already established and accepted by the two parties;

11.9 Announcing the results of the referendum on self-determination.

12. During the transition period, the United Nations authority will be responsible for implementing the foregoing provisions and will be empowered to suspend any law or regulation which could impede the process of the organization of a free and fair referendum on self-determination, or could call in question the results of such referendum announced by the United Nations.

13. The referendum on self-determination will be open to Saharans of voting age identified by the United Nations Identification Commission on the basis of criteria accepted by both parties, as shown on the provisional list of voters of 30 December 1999. During the transition period, the United Nations Identification Commission will consider and resolve in a rigorous and impartial manner the claims made by those whose names have not already been included for participation in the referendum on self-determination.

14. The referendum on self-determination will be conducted on a date to be determined by the Security Council before the end of the transition period. It will be organized and monitored by the United Nations through MINURSO in accordance with the agreements already concluded between the two parties and the code of conduct already accepted by them.

15. Immediately prior to the transition phase, the two parties will confirm their commitment to respect the results of the referendum on self-determination and, on the basis of those results, to implement the provisions deriving from them and those which have already been included in an agreement accepted and signed by them.

16. Through the Security Council, the United Nations will ensure respect by the two parties of the results of the referendum on self-determination.

It would certainly have been easier for Algeria to confine itself to affirming that it would support any solution which accorded with the principles of the United Nations Charter and was accepted by the Kingdom of Morocco and by the Frente POLISARIO.

However, recognizing the efforts made by the United Nations and particularly by the Personal Envoy of the Secretary-General, to whom it would like to express its gratitude and reaffirm its trust, Algeria undertakes to support any step with a view to reaching a just and lasting solution to the conflict in Western Sahara.

It goes without saying that such a solution must be in conformity with the principles of the United Nations and accepted by both parties to the conflict, and also approved by all the parties which are directly concerned or involved.

Annex III

Comments by the Government of Morocco

[Original: French]

In its resolution 1359 (2001) of 29 June 2001, the United Nations Security Council "*encourages* the parties to discuss the draft framework agreement and to negotiate any specific changes they would like to see in this proposal".

Pursuant to this resolution, Mr. James Baker III, Personal Envoy of the Secretary-General, met with representatives of Mauritania, Algeria and the Frente POLISARIO in Wyoming, United States of America, from 27 to 29 August 2001.

Following the Wyoming meeting, the Personal Envoy asked the Frente POLISARIO and Algeria to provide clarification of their respective positions on the draft framework agreement on the Status of Western Sahara. Mauritania, for its part, expressed its support for any solution that might promote peace and stability in the region.

As soon as resolution 1359 (2001) was adopted, the Kingdom of Morocco, for its part, had stated that it was prepared to negotiate on the basis of the draft framework agreement in full and complete respect for the unanimous will of the Security Council.

Under resolution 1359 (2001), in order for the negotiations to take place, the Frente POLISARIO and Algeria also needed to express clearly their willingness to enter into them on the basis of the framework agreement, which Mr. Kofi Annan, in the above-mentioned report, called "the last window of opportunity for years to come"; both the Secretary-General and his Personal Envoy had concluded that the settlement plan could not be implemented and that another approach must be sought.

The Secretary-General has appealed urgently to the Frente POLISARIO and, specifically, to Algeria to enter into the negotiation process since, as the Council notes in its resolution 1359 (2001), "according to the rules of the consultations established by the Personal Envoy nothing would be agreed until everything had been agreed"; it therefore "*emphasizes* that by engaging in these negotiations the parties will not prejudice their final positions".

Not until October did the Frente POLISARIO and Algeria provide the Personal Envoy with the requested clarifications (they were transmitted to the Moroccan Government by Mr. Baker on 31 October 2001).

In reading these documents, it must be recognized that, despite the unanimous will of the Security Council and the assurances provided by it, the Frente POLISARIO and Algeria have not clarified anything at all and have deliberately chosen not to reply to the urgent request addressed to them by the Secretary-General, his Personal Envoy and the Security Council. This refusal, expressed four months after the adoption of resolution 1359 (2001), can in no way be justified on so-called grounds of principle since both the Secretary-General and the Security Council stated that the draft framework agreement "aims at reaching an early, durable and agreed resolution of the conflict ... in a way that does not foreclose self-determination, but indeed provides for it". And, indeed, the draft framework agreement states that within five years a referendum on the final status of the Territory would be held.

Unfortunately, our observations on the Frente POLISARIO memorandum and Algeria's comments must be limited to the manner in which both of them have failed to meet their international obligations by not addressing the substance of the proposed framework agreement.

In its "memorandum", the Frente POLISARIO not only categorically rejects the draft framework agreement; it even objects to any United Nations approach to "the question of Western Sahara" which allowed the universal Organization to take initiatives with a view to a definitive solution thereof, whether through the settlement plan or through the draft Framework Agreement. This approach is based on the legality of Moroccan presence in the Territory, which justifies considering the possibility of the latter's simple integration or of a status under which Morocco would agree to some devolution of authority "for all inhabitants and former inhabitants of the Territory that was genuine, substantial and in keeping with international norms".

By denying Morocco the right to delegate all power to the inhabitants, the Frente POLISARIO thus places itself in opposition to the Secretary-General of the United Nations and to the Security Council, which have proposed that Morocco, as "administrative Power", should delegate certain powers enumerated in the draft framework agreement.

In oratory that it has repeated for many years, the Frente POLISARIO concludes by asking the United Nations to pursue implementation of the settlement plan, knowing that all such efforts have clearly ended in deadlock.

On this occasion, the Moroccan Government wishes to stress that, despite the Security Council's urgent appeal, the Frente POLISARIO has taken no steps to free the 1,479 people whom it has held in detention for over 20 years, in flagrant violation of humanitarian law, in camps located in Algerian territory. Everyone knows that Morocco has fulfilled all its obligations in that regard, cooperating fully with the international agencies concerned in order to determine the fate of various people who have disappeared.

Regarding the "Official proposals submitted by the Frente POLISARIO to overcome the obstacles preventing the implementation of the settlement plan" (contained in an annex to document S/2001/613 of 29 June 2001), paragraph 3 of Security Council resolution 1359 (2001) should be recalled. It affirms that "while discussions referred to above go on, the ... proposals submitted by the Polisario Front ... will be considered". However, the negotiations have still not yet begun, owing to the refusal of both Frente POLISARIO and Algeria to embark on them, on the basis of the draft framework agreement on the Status of Western Sahara. In these conditions, we do not see how the above-mentioned proposals of Frente POLISARIO can be examined. In any case, in compliance with resolution 1359 (2001), the Kingdom of Morocco cannot agree to examining them.

For its part, in its comments, Algeria considers that the draft framework agreement is based on an "illegal premise" and declares that it is "unacceptable". By doing this, Algeria in effect denies the request of both the Secretary-General and his Personal Envoy and ultimately rejects the request addressed to it by the Security Council in its resolution 1359 (2001) of 29 June 2001.

This challenge to the international community is coupled with a very belated objection to the legality of Morocco's presence on its territory. Quite apart from the

fact that the principle of this devolution had been broached by the Secretary-General at least a year ago without raising any objections from Algeria, we need only to recall that the Moroccan presence was put in place in full compliance with international law. Indeed, in its resolution 380 (1975) of 6 November 1975, the Security Council had called on "all parties concerned and interested" to undertake negotiations under Article 33 of the Charter of the United Nations. On 14 November 1975, Morocco, Mauritania and Spain concluded the Madrid Agreement (registered with the United Nations on 9 December 1975, as number 14450), by which Spain terminated "the responsibilities and powers which it possesses over that Territory as administering Power". The Agreement, which, in its own terms, had been concluded in accordance with the negotiations advocated by the United Nations, creates a temporary administration, while affirming that "the views of the Saharan population, expressed through the Djemaa (assembly of tribal chiefs of the territory), will be respected".

Immediately afterwards, on 10 December 1975, the United Nations General Assembly took note of the Madrid Agreement and requested the organization of appropriate consultation with the population (resolution 3458 B (XXX)). This consultation took place at the beginning of the following year (26 February 1976), under the terms of the Madrid Agreement, which had also been approved by the Djemaa.

The legality of the presence of the Kingdom of Morocco and the legal grounds for its sovereignty have thus been well established for over 25 years. Moreover, Morocco had recovered its provinces of "Western Sahara" in the same way that it had recovered the neighbouring provinces of Tarfaya and Sidi Ifni following negotiations with Spain, in 1958 and in 1969. But the settlement of the question of the Sahara in accordance with international law did not suit Algeria, which deliberately chose to create a regional dispute, in a totally artificial way, and has taken steps to internationalize it.

Despite this, the Government of Morocco has become involved, in good faith, in all the attempts made by the United Nations to arrive at a fair and durable solution to this dispute. We sincerely hoped that Algeria would take advantage of the "last window of opportunity" offered by the United Nations and truly commit itself to the negotiation process.

However, this did not happen and, instead of cooperating with the United Nations, Algeria has chosen to continue headlong on its current path, in an escalation that is sterile and dangerous for the peace and stability of the Maghreb.

This escalation even includes a desire to entrust the entire administration and security of the territory to the United Nations, by arbitrary analogy and assimilation with some other peace process carried out under the responsibility of the universal Organization.

Evidently, by reacting in this way, Algeria does not make the slightest attempt to advance the Security Council's initiative for the peaceful settlement of the regional dispute over the Sahara. On the contrary, it closes the door on the offer made to it to negotiate in order to build a peaceful and prosperous future for the Maghreb.

But we know that neighbourly relations have their own logic and requirements and we hope that the door will be reopened, so that we can discuss our respective positions in all frankness and good faith.

The Kingdom of Morocco is always ready to do this, in respect of its sovereignty and the principles upon which it is founded and organized.

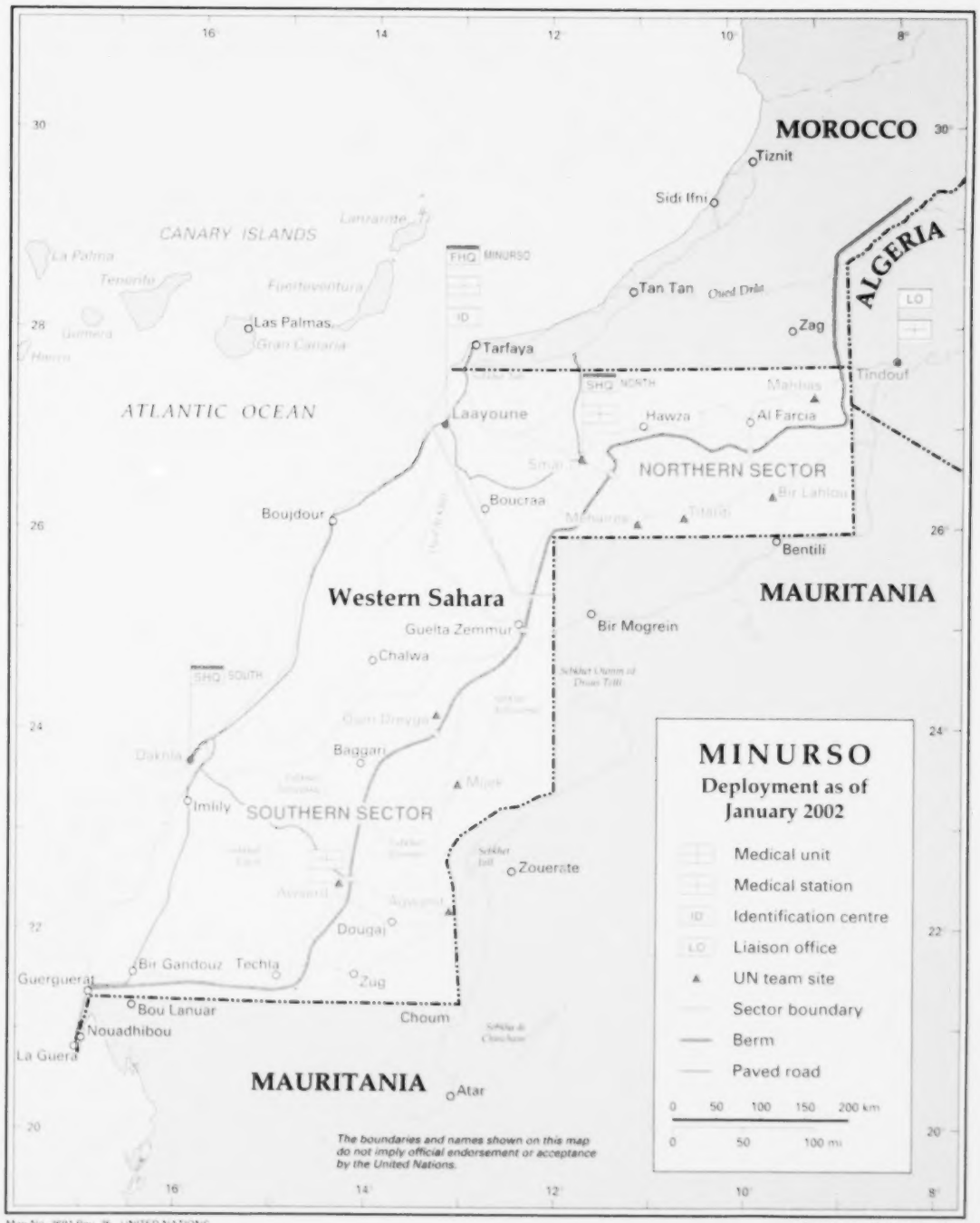
The Government of Morocco will continue cooperating with the Security Council, the Secretary-General and his Personal Envoy, in accordance with international law. It takes this opportunity to express its gratitude to Mr. Kofi Annan and Mr. James Baker for their untiring and constant efforts to advance a fitting peace process in our region of the Maghreb.

Annex IV

United Nations Mission for the Referendum in Western Sahara — contributions as at 4 January 2002

	Military observers	*Force commander*	*Troops*	*Civilian police*[a]	*Total*
Argentina	1				1
Austria	3				3
Bangladesh	6				6
Belgium		1			1
China	16				16
Egypt	19				19
El Salvador	2				2
France	25				25
Ghana	6		7		13
Greece	1				1
Guinea	3				3
Honduras	12				12
Hungary	6			1	7
Ireland	3				3
India				2	2
Italy	5				5
Jordan				5	5
Kenya	8				8
Malaysia	13			3	16
Nigeria	5			3	8
Norway				2	2
Pakistan	6			2	8
Poland	6				6
Portugal	4			4	8
Republic of Korea			20		20
Russian Federation	25				25
Senegal				3	3
Sweden				1	1
Uruguay	13				13
United States of America	15				15
Total	**203**	**1**	**27**	**26**	**257**

[a] Authorized strength is 81.



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